

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

SAFE DISPOSAL SYSTEMS, INC.

and

Case 4-CA-32343

ABEL ROMAN, an Individual

Edward J. Bonnett, Jr. Esq., for the General Counsel.
Peter Quist, Esq., (*Gallagher, Flynn LR, LLC*), of Burlington,
Vermont, for the Employer.
Richard C. McNeill, Jr. and Jennifer B. Leibman, Esqs.,
(*Jennings, Sigmond*), of Philadelphia, Pennsylvania,
for the Union.

DECISION

Statement of the Case

WILLIAM G. KOCOL, Administrative Law Judge. This case was tried in Philadelphia, Pennsylvania on October 28, 2003. The charge, first amended charge, and second amended charge were filed August 6, September 29, and 30, 2003,¹ respectively and the complaint was issued September 30. The complaint alleges that Safe Disposal Systems, Inc. (herein Respondent) made several statements to employees in violation of Section 8(a)(1) and violated Section 8(a)(3) and (1) by issuing a written warning to employee Abel Roman, preventing him from continuing to use a room to change his clothes, and discharging him because he supported the Metropolitan Regional Council of Carpenters, Eastern Pennsylvania, State of Delaware, and Eastern Shore of Maryland (herein the Union). Respondent filed a timely answer that as amended at the hearing denied the substantive allegations of the complaint.

On the entire record,² including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and Respondent, I make the following

Findings of Fact

I. Jurisdiction

Respondent, a corporation, is engaged in the business of the disposal of appliances at its facility in Philadelphia, Pennsylvania, where it annually purchases and receives goods valued in excess of \$50,000 directly from points located outside the Commonwealth of Pennsylvania. Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning

¹ All dates are in 2003 unless otherwise indicated.

² The General Counsel's unopposed motion to correct transcript is granted.

of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

5 A. Background

The main issue in this case is whether Roman is a supervisor with in the meaning of Section 2(11) of the Act. Respondent contends that Roman supervised a total of four employees—Kirk Johnson, Charles Renwick, William Boyer, and Dearld Steadman.
10 Respondent contends that Roman became a supervisor in early January when he received a significant wage increase.

Respondent came into existence in 1992 as a response to federal legislation that required refrigerants such as Freon to be extracted from domestic appliances such as
15 refrigerators and air conditioners. These appliances are delivered to Respondent's facility where Respondent removes and recycles the refrigerants and tears down and recycles the appliances. Respondent's facility consists of three warehouses. Approximately 18 persons worked for Respondent during the relevant time period. Brian Conners is Respondent's president. Harvey Conners, Brian's father, is Respondent's controller. Both Brian and Harvey
20 Conners act as general supervisors in the production aspects of the business; they both exercise supervisory authority over the employees. During the relevant time period Brian spent about 50 percent of his time in the warehouse while Harvey spent about 50-60 percent of his time there. Respondent contends that around the time of the election there were also four other supervisors—Roman, Randy Ramos, Bob Pieczonka, and Angel DeJesus. Ramos and
25 Pieczonka were truck drivers who allegedly each supervised a helper. DeJesus allegedly supervised the laborers and shredders. Rounding out the picture, Merideth Conners, Brian's mother, did office and clerical work and dispatched the two truckdrivers and two driver helpers.

On July 18 the Union filed a petition to represent certain of Respondent's employees.
30 On July 28 the parties entered into a Stipulated Election Agreement and a secret ballot election was held on August 27, 2003. The election results showed that four votes were cast for the Union and five against, with two decisive challenged ballots. At the hearing in this case I issued a bench decision upholding the challenge to one ballot, thereby assuring that the Union lost the election regardless of the vote cast by the remaining challenged ballot. The Union's attorney
35 admitted that at the meeting that resulted in the Stipulated Election Agreement the Union orally agreed that it would not do anything on Roman's behalf to advance an argument that he was an employee and not a supervisor.

40 B. Supervisory Status

Roman began working for Respondent in May 2000; he was terminated August 6, 2003. He worked as a refrigeration technician. He extracted the refrigerants from the appliances and stored them in tanks. Roman was certified by the Environmental Protection Agency to do so; Brian Conners was the only other person employed by Respondent who also had such a
45 certification. Roman spent 95 percent of his time performing these tasks. Roman worked in warehouse number 1 where he had a desk and used the desk area to change clothes. Roman spent the remaining five per cent of his time doing some electrical work and driving a forklift. In November or December 2002 Roman obtained a certification to drive a forklift. As a result he would sometimes help the truck drivers unload and transport air conditioners. After he received his forklift certification Roman asked Brian Conners for a salary increase. Roman asked for a
50 \$50 dollar per week increase. Conners told Roman that he would receive \$100 per week increase but he had to exercise more oversight authority over the work in the air conditioning

unit.³ His salary was actually increased from \$13.75 to \$16.25 per hour.

As indicated, Respondent contends that Roman supervised the employees in the air conditioning station. Charles Renwick, Kirk Johnson, and Bill Boyer worked there; they took apart the air conditioners after Roman removed the refrigerants. At the start of the workday the employees reported to their work areas and began working; there was no need to assign work to them at the start of each day. Sometimes Roman and the other employees would assist each other with certain of their task. Brian or Harvey Conners sometimes made the determination of when this should happen. Roman relayed the instructions from Brian and Harvey Conners to the three employees.⁴ On one occasion near the start of the year Roman told Renwick to help him work on the tanks; this was after Brian or Harvey Conners told Roman to have Renwick help him. Renwick questioned whether Roman had the authority to tell him what work to do so Renwick asked Harvey Conners. Harvey Conners told Renwick that he should do as Roman told him to do. But as Renwick testified at the hearing he did not receive this type of direction from Roman every day; only when things "got tight" would Roman ask him to perform tasks other than those that he had been performing. In addition, Roman also told the employees on a daily basis to perform certain tasks such as what tanks they should work on next in consolidating the storage of refrigerants. This was not done pursuant to specific instructions from Brian or Harvey Conners.

Roman observed that Johnson and Boyer were constantly arguing. Concerned that physical violence might occur Roman reported this situation to Brian and Harvey Conners and suggested that something needed to be done, but the Conners' took no action at that time.⁵ Later Roman learned that Johnson and Boyer had a fistfight. Roman suggested to Boyer that Boyer return to working as a shredder outside the air conditioning station and that Boyer switch positions with Derald Steadman, who would then work in the air conditioning unit. Roman then presented this suggestion to Harvey Conners. Harvey Conners then asked Boyer and Steadman if they agreed to the switch. After they indicated that they did, Harvey Conners

³ The reason for this pay increase is a matter of dispute between Roman and Brian Conners. I conclude that neither's testimony is wholly credible. Roman testified that he asked for a \$50 increase as a result of obtaining his forklift certification and that Conners gave him a \$100 increase instead with no additional strings attached. I find that highly unlikely. I also have considered Brian Conners' testimony that he gave Roman the \$100 salary increase to take care of the "whole thing" in the air conditioning station and that Roman agreed. I find this testimony to be exaggerated. Based on my observation of the demeanor of the witnesses and the entire record, I conclude that Roman was asked to take on additional responsibilities, contrary to his testimony, but he was not asked to take over the "whole thing" contrary to Conners' testimony. I have also considered Harvey Conners' testimony that he and Brian decided to put Roman "in charge" of the air conditioning unit in mid January. However, Harvey Conners' testimony in this regard was procured through the use of leading questions and his testimony was often conclusory in nature. I conclude this testimony is exaggerated and do not credit it to the extent that it is inconsistent with my findings set forth above.

⁴ I have considered Brian Conners' testimony that he never told Roman who the work in the air conditioning station should be assigned to but rather only told Roman when he could not assign work to those employees because they were needed elsewhere. Here again Conners' testimony appears exaggerated and his demeanor unconvincing. I once again do not credit Conners' testimony.

⁵ I have considered Conners' testimony that when Roman advised him of the situation between the two employees he instructed Roman to take care of the problem. Again, I conclude that this testimony is exaggerated and I do not credit it.

effectuated the transfer. Roman became aware the Renwick had certain training. He suggested to Brian Conners that he begin training Renwick to perform certain tank transferring tasks. Conners agreed and Roman began training Renwick to perform the tasks. Roman later asked Harvey Conners how they would deal with the fact that Renwick would lose some of his air conditioning bonus while he performed the new tasks. Harvey Conners told Roman to tell Renwick that he would not lose the bonus payments.⁶

Harvey Conners handed out warnings that resulted from poor attendance; Roman played no role in that matter. On July 2 Brian Conners issued Johnson a written warning when he saw Johnson commit an unsafe act while operating the shredder. Conners put Johnson on 30 days probations and indicated that Johnson would be terminated if he broke any rules during that time period. On another occasion Brian Conners wrote up Johnson when Johnson failed to appear for work and apparently gave a false reason to explain his absence. On another occasion Johnson was placed on probation for a 45-day period. Roman was not involved in these matters.

C. Roman's Termination

In July Roman encountered Union Representative Jose Cruz at the facility; Cruz gave Roman an authorization card that Roman signed on July 11. Roman then told other employees about the Union. As indicated above, on July 18 the Union filed its petition for an election. Brian Conners explained that he felt hurt after he learned that the petition was filed.

⁶ I have considered Boyer's testimony that in January Roman told him, Renwick, and Johnson that he was now their "supervisor" in the air conditioning area. According to Boyer, Roman said that he would now hook up and disconnect the air conditioners for them and that if they needed air conditioners he would get them with the forklift. Boyer testified that when the employees had no work to do Roman would assign them to do clean up chores. Boyer confirmed that he and Johnson did not get along. He testified that he asked Roman if he could transfer out of the department before things got out of hand and Roman answered that he would see what he could do. Apparently nothing happened until after the physical altercation took place. Boyer claimed that Roman then transferred him out of the air conditioning unit. Boyer testified that he had no conversations with either Brian or Harvey Conners about the transfer. Yet Harvey Conners himself admitted that he spoke to Boyer about this matter. Boyer also testified that Roman assigned work to him, Johnson, and Renwick and no one else did so, but it is clear that both Brian and Harvey Conners continued to exercise supervisory authority over the employees in that area even after Respondent asserts that Roman became a supervisor. Indeed, Harvey Conners testified that he continued to direct work in the air conditioning unit when Roman was not available to do so. Boyer also testified that he told Roman that he (Boyer) was being transferred out of the air conditioned unit, rather than the other way around, but he did not explain how he discovered that fact if Roman did not tell him about it and if he never talked to Brian or Harvey Conners about the transfer. Renwick did not testify that Roman announced that he was the supervisor of the air conditioning unit. For these reasons, as well as my observation of the relative demeanor of the witnesses, I do not credit Boyer's testimony. Finally, in his brief the General Counsel asks that an adverse inference be drawn against Respondent for its failure to call Steadman as a witness. I decline to do so; Steadman was not an agent of Respondent's and was equally available to the General Counsel to call as a witness.

On July 21 Brian Conners was waiting with a clipboard in his hands as Roman arrived to work. Conners told Roman that he was going to write him up because he was 5 minutes late. Roman looked at his watch; it showed that he was only 2 minutes late. Although Roman normally arrived to work on time on occasion he had arrived a few minutes late and had not been disciplined. Roman proceeded to his desk area and began to change into his work clothes as he normally did. He had been changing in this area since he began working for Respondent. Conners told Roman that he was a regular employee and was supposed to change his clothes in the locker room with the other employees. Conners said that he was going to write up Roman for that too. He asked Roman to sign the writeup but Roman refused. Later that day Conners again appeared to write up Roman, this time for operating equipment without wearing protective goggles. Conners had advised Roman in the past that he should wear the goggles when he was using the big hoses in dealing with refrigerants, but on this occasion Roman was not using the big hoses. Otherwise Roman only wore his own glasses while working and had never been disciplined for this before. Still later that day an employee approached Roman and asked to use his cell phone. Conners quickly came to Roman and told him that he was not to talk to the employees. This was the first time Roman had ever been told not talk to employees; he had freely talked to employees in the past. That same day Conners told Roman that he knew Roman was soliciting for the Union. Roman did not respond. He noticed that Conners was writing as he spoke and Roman said that he knew how to write too. Conners said that he was going to write up Roman for that remark also.

On July 28 Roman was summoned to an office where Brian Conners and Peter Quist, Respondent's attorney, were present. Conners said the Roman was a supervisor and could not vote for the Union. Conners said that if Roman did not help Conners break the union effort Conners would fire him. Conners said that he was going to provide Roman with benefits. Later, some time in early August, Conners explained to Roman in greater detail the health insurance benefits that he would be provided. He gave Roman some written information to review and said that Roman should make up his mind about helping to break the union effort or get fired. On August 6 Brian Conners again approached Roman about the insurance matter. Roman said that he could not afford to pay his share of the costs for the health insurance benefits and said that he needed more time. Conners responded that Roman had to decide that same day and that if he did not decide that day Conners was going to fire him. Roman answered that he could not do anything about that and Conners then told Roman that he was fired. As Roman was changing out of his work clothes Conners hit him in the chest and told him how stupid he was.⁷

As indicated above, on July 28 the parties entered into the Stipulated Election Agreement. Respondent then sent the employees a notice that set forth the date, time, and location for the election. It also said:

It was determined by the company in agreement with the Union representatives that the following people are supervisors under the law and are not eligible to be union members or vote:
1. Angel DeJesus, 2. Able Roman, 3. Rob Pieczonka, 4. Randy Ramos

⁷ The facts in this section are based on Roman's credible testimony. They are largely undisputed. Respondent agrees that Roman was fired because he refused to help in Respondent's campaign against the Union. As Brian Conners testified "I gave him an ultimatum. I need you to support me ...in my campaign or you're going to have to leave." When Roman refused to commit, Conners fired him.

In another letter Respondent urged the employees to vote no in the election.

III. Analysis

A. Roman's Supervisory Status

The Supreme Court has confirmed that the burden of establishing supervisory status rests with the party asserting its existence. *NLRB v. Kentucky River Community Care*, 532 U.S. 706 (2001). In this case, therefore, Respondent bears the burden of showing that Roman was a supervisor. This burden cannot be established by general or conclusory assertions. *Crittendon Hosp.*, 328 NLRB 879 (1999). Section 2(11) of the Act defines a supervisor as:

any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

These criteria are to be read in the disjunctive; possession of only one of the criteria is sufficient to establish supervisory status. *Juniper Industries*, 311 NLRB 109, 110 (1993). However, the Board has indicated that the statutory definition of a supervisor should not be too broadly construed because employees' rights under the Act are at stake. *Chicago Metallic Corp.*, 273 NLRB 1677, 1689 (1985). The Supreme Court has described a three-part test for determining whether a person is a supervisor as defined in the Act. To be a supervisor a person must (1) hold the authority to engage in one of the 12 functions listed in Section 2(11); (2) the exercise of that authority is not merely routine or clerical in nature but instead requires the use of independent judgment; and (3) the authority is held in the interest of the employer. *Kentucky River Community Care*, supra at 712.

There is no evidence worthy of discussion that Roman possessed any authority to discipline, promote, suspend, lay off, recall, discharge, hire, or reward as defined in Section 2(11). Concerning the ability to adjust grievances and transfer employees, I have described above the role Roman played in transfers of Boyer and Steadmen. Roman initially pointed out the problem to Brian and Harvey Conners but they did not act upon Roman's suggestion. Later Roman did in fact facilitate the transfer of the two employees, but Harvey Conners independently assessed the situation by talking to the employees and he made the decision to transfer them. This evidence falls short of showing that Roman effectively recommended the transfer or otherwise adjusted any grievances. Moreover a single isolated instance is insufficient to establish supervisory status. *Kanawha Stone*, 334 NLRB 235, 237 (2001).

In its brief Respondent argues that Roman had the authority to assign or direct the work of employees. As describe above, in January Roman was assigned additional responsibilities in overseeing the work in the air conditioning unit but Respondent has failed to show precisely what those additional duties were. I have also concluded above that Roman's duties included relaying instructions from Brian and Harvey Conners concerning the assignment of work to the employees in the air conditioning unit. However, the fact that an employee acts as a conduit for instructions from higher level authorities does not establish supervisory authority. *Hausner Hard Chrome*, 326 NLRB 426 (1998). I have also concluded that Roman told the employees certain tasks that the employees were to work on next. The assignment of such tasks does not alone establish supervisory status; rather the assignments must be made by the exercise of

independent judgment. *Clark Machine Corp.*, 308 NLRB 555, 556 (1992). The burden of establishing the use of such independent judgment rests in this case with Respondent, and it has failed to meet that burden. In summary, I conclude that Respondent has failed to show that Roman was a supervisor within the meaning of the Act.

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B. Alleged Violations of the Act

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In his brief the General Counsel urges me to apply the analysis set forth in *Wright Line*, 251 NLRB 1083 (1980), *enfd.* 662 F.2d 899 (1st Cir. 1981), *cert. denied*, 455 U.S. 989 (1982) in determining whether Roman was unlawfully terminated. However, that analysis is used only when the motivation for a termination is at issue. Here motivation is not an issue because Respondent admits that it terminated Roman because he refused to join its campaign against the Union. As an employee Section 7 of the Act protected Roman's refusal to do so. By terminating Roman because he supported the Union, Respondent violated Section 8(a)(3) and (1). The complaint also alleges that Respondent violated Section 8(a)(3) and (1) by issuing Roman a written warning on July 21. But there is no evidence that issued anything in writing to Roman on July 21; rather the evidence shows only that Respondent made certain oral statements. Likewise the complaint alleges that Respondent changed Roman's terms and conditions of employment by prohibiting him from using the desk area to change his clothes. But while Respondent did make statements to the effect, there is no evidence that Respondent made good on those statements. Rather, so far as this record shows Roman continued to use that area to change clothes. I shall dismiss the 8(a)(3) portion of these allegations and I shall deal with the remaining 8(a)(1) allegations below.

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The complaint alleges that on July 21 Respondent threatened to discipline Roman because he supported the Union. I have described above how on that date Brian Conners threatened to discipline Roman on a number of occasions. All of the threats were for matters that Roman had not been disciplined for in the past. In context it was clear that the threats of discipline were because Roman continued to support the Union. By threatening to discipline Roman because he supported the Union, Respondent violated Section 8(a)(1). The complaint alleges that on that same day Respondent prohibited Roman from talking to other employees in order to prevent him from engaging in union activity. I have found above how on that same day an employee approached Roman and asked to use his cell phone. Conners quickly came to Roman and told him that he was not to talk to the employees. This was the first time Roman had ever told not talk to employees; he had freely talked to employees in the past. In context it is clear that Conners issued this prohibition in order to prevent Roman from discussing union and related matters. By prohibiting Roman from talking to other employees in order to prevent him from engaging in union activity, Respondent violated Section 8(a)(1). The complaint also alleges that on that same day Respondent interrogated Roman concerning his union activity. That day Conners told Roman that he knew Roman was soliciting for the Union. Roman did not respond. I conclude that Conners statement did not amount to an interrogation. I note that the General Counsel in his brief does not argue that this statement otherwise violated the Act. Accordingly, I shall dismiss this allegation in the complaint.

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The complaint next alleges that on or about July 25 Respondent solicited the grievances of an employee and thereby promised him improved working conditions in order to discourage him from supporting the Union. The complaint alleges that on that same day Respondent threatened to discharge an employee if he did not engage in antiunion activity. However the complaint allegations do not match the record. There is no evidence in the record concerning any events occurring on July 25. However, there is evidence that on July 28 Conners said the Roman was a supervisor and could not vote for the Union. Conners said that if Roman did not help Conners break the union effort Conners would fire him. Conners said that he was going to

provide Roman with benefits. Yet the complaint alleges only that on July 28 Respondent interrogated an employees concerning his union activities but there is no evidence of the any interrogation. The complaint alleges that on about August 5 Respondent promised health insurance benefits to Roman in order to discourage his support for the Union. I have concluded above that in early August Connors explained to Roman in greater detail the health insurance benefits that he would be provided. He gave Roman some written information to review and said that Roman should make up his mind about helping to break the union effort or get fired. Lastly, the complaint alleges that on about August 6 Respondent again unlawfully offered health insurance benefits to Roman and also threatened to discharge him if he did not engage in an antiunion campaign. On that date I have concluded that Brian Connors again approached Roman about the insurance matter. Roman said the he could not afford to pay his share of the costs for the health insurance benefits and said that he needed more time. Connors responded that Roman had to decide that same day and that if he didn't decide Connors was going to fire him.

In his brief the General Counsel does not address these inconsistencies but instead argues, without any reference to the transcript, that Respondent violated Section 8(a)(1) of the Act in five ways at unspecified times between July 21 and August 6. The first two of the five ways occurred on July 21 and have already been addressed above. In his brief the General Counsel argues that Respondent also threatened Roman with discharge if he did not give up support for the Union. Brian Connors made such a threat on July 28, and this finding is closely related to the allegation in the complaint that this occurred on July 25. By threatening to discharge Roman if he did not give up support for the Union, Respondent violated Section 8(a)(1). The fourth way the General Counsel argues that Respondent violated Section 8(a)(1) was by promising Roman it would improve his benefits if Roman agreed to help Respondent defeat the Union. I have concluded above that on July 28 Brian Connors said that he was going to provide Roman with benefits, yet the complaint alleges only that Respondent unlawfully interrogated Roman on that day and there is no allegation in the complaint that Respondent unlawfully promised benefits in general as opposed to specific health insurance benefits. Because I do not see a match between these assertions and the allegations of the complaint and because the General Counsel does not argue that this matter was fully and fairly litigated I decline to find this violation. Lastly, the General Counsel argues that Respondent unlawfully offered Roman health insurance benefits in order to get him to help Respondent defeat the Union. As indicated above the complaint allegations cover this allegation and the facts support it. By offering Roman healthcare benefits to get him to support Respondent's campaign to defeat the Union Respondent violated Section 8(a)(1) of the Act.

Conclusions of Law

1. By the following conduct Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

(a) Threatening to discipline Roman because he supported the Union.

(b) Prohibiting Roman from talking to other employees in order to prevent him from engaging in union activity.

(c) Threatening to discharge Roman if he did not give up support for the Union.

(d) Offering Roman healthcare benefits to get him to support Respondent's campaign to defeat the Union.

By discharging Roman because he supported the Union Respondent violated Section 8(a)(3) and (1) and Section 2(6) and (7) of the Act.

5 Remedy

10 Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Respondent having discriminatorily discharged Abel Roman, it must offer him reinstatement and make him whole for any loss of earnings and other benefits, computed on a quarterly basis from date of discharge to date of proper offer of reinstatement, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

15 On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁸

ORDER

20 The Respondent, *Safe Disposal Systems, Inc.*, 7333 Milnon Steet, Philadelphia Pennsylvania, its officers, agents, successors, and assigns, shall

1. Cease and desist from

25 (a) Threatening to discipline employees because they support the Metropolitan Regional Council of Carpenters, Eastern Pennsylvania, State of Delaware, and Eastern Shore of Maryland or any other labor organization.

30 (b) Prohibiting employees from talking to other employees in order to prevent them from engaging in union activity.

(c) Threatening to discharge employees if they do not give up support for the Union or any other labor organization.

35 (d) Offering employees new or improved benefits to get them to support a campaign to defeat the Union.

40 (e) Discharging employees because they supported the Union or any other labor organization.

(f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

45 2. Take the following affirmative action necessary to effectuate the policies of the Act.

50 ⁸ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(a) Within 14 days from the date of this Order, offer Abel Roman full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

(b) Make Abel Roman whole for any loss of earnings and other benefits suffered as a result of the discrimination against him in the manner set forth in the remedy section of the decision.

(c) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge, and within 3 days thereafter notify the employee in writing that this has been done and that the discharge will not be used against him in any way.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of back pay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Philadelphia, Pennsylvania, copies of the attached notice marked "Appendix."⁹ Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 21, 2003.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. December 29, 2003

William G. Kocol
Administrative Law Judge

⁹ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT threaten to discipline you because you support the Metropolitan Regional Council of Carpenters, Eastern Pennsylvania, State of Delaware, and Eastern Shore of Maryland or any other labor organization.

WE WILL NOT prohibit you from talking to other employees in order to prevent you from engaging in union activity.

WE WILL NOT threaten to discharge you if you do not give up support for the Union or any other labor organization.

WE WILL NOT offer you new or improved benefits to get you to support a campaign to defeat the Union.

WE WILL NOT discharge you because you support the Union or any other labor organization.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer Abel Roman full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

WE WILL make Abel Roman whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharge of Abel Roman, and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.

Safe Disposal Systems, Inc.

(Employer)

Dated _____

By _____

(Representative)

(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

615 Chestnut Street, One Independence Mall, 7th Floor, Philadelphia, PA 19106-4404

(215) 597-7601, Hours: 8:30 a.m. to 5 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (215) 597-7643.